

AMENDED IN ASSEMBLY APRIL 30, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1589**

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**Introduced by Assembly Member Duvall**

February 23, 2007

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An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1589, as amended, Duvall. Vehicles: reports: reexaminations: removal.

Existing law authorizes a peace officer, as defined, or a regularly employed and salaried public employee, who is engaged in directing traffic or enforcing parking laws and regulations, to remove a vehicle when the vehicle is found or operated upon a highway, public lands, or an offstreet parking facility with a registration expiration date in excess of 6 months before the date it is found or operated.

This bill would provide additional instances relating to registration when a vehicle may be removed from a highway, public lands, or an offstreet parking facility.

*This bill would also make technical, nonsubstantive changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22651 of the Vehicle Code is amended  
2 to read:

22651. ~~Any~~A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or ~~any~~ a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under ~~any~~ of the following circumstances:

(a) When ~~any~~ a vehicle is left unattended upon ~~any~~ a bridge, viaduct, or causeway or in ~~any~~ a tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When ~~any~~ a vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When ~~any~~ a vehicle is found upon a highway or ~~any~~ a public ~~lands~~ *land* and a report has previously been made that the vehicle ~~has been~~ *is* stolen or a complaint has been filed and a warrant thereon *is* issued charging that the vehicle ~~has been~~ *is* embezzled.

(d) When ~~any~~ a vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When ~~any~~ a vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When ~~any~~ a vehicle, except ~~any~~ a highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of ~~any~~ *freeway which* ~~a freeway that~~ has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person ~~or persons~~ in charge of a vehicle upon a highway or ~~any~~ ~~public lands~~ *are public land is*, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) (1) When an officer arrests ~~any~~ a person driving or in control of a vehicle for an alleged offense and the officer is, by this code

1 or other law, required or permitted to take, and does take, the  
2 person into custody.

3 (2) When an officer serves a notice of an order of suspension  
4 or revocation pursuant to Section 13388.

5 (i) (1) ~~When any a vehicle~~, other than a rented vehicle, is found  
6 upon a highway or ~~any public lands~~ *public land*, or is removed  
7 pursuant to this code, and it is known that the vehicle has been  
8 issued five or more notices of parking violations to which the  
9 owner or person in control of the vehicle has not responded within  
10 21 calendar days of notice of citation issuance or citation issuance  
11 or 14 calendar days of the mailing of a notice of delinquent parking  
12 violation to the agency responsible for processing notices of  
13 parking violation or the registered owner of the vehicle is known  
14 to have been issued five or more notices for failure to pay or failure  
15 to appear in court for traffic violations for which ~~no certificate has~~  
16 *a certificate has not* been issued by the magistrate or clerk of the  
17 court hearing the case showing that the case has been adjudicated  
18 or concerning which the registered owner's record has not been  
19 cleared pursuant to Chapter 6 (commencing with Section 41500)  
20 of Division 17, the vehicle may be impounded until that person  
21 furnishes to the impounding law enforcement agency all of the  
22 following:

23 (A) Evidence of his or her identity.

24 (B) An address within this state at which he or she can be  
25 located.

26 (C) Satisfactory evidence that all parking penalties due for the  
27 vehicle and ~~any other vehicle~~ *all other vehicles* registered to the  
28 registered owner of the impounded vehicle, and all traffic violations  
29 of the registered owner, have been cleared.

30 (2) The requirements in subparagraph (C) of paragraph (1) shall  
31 be fully enforced by the impounding law enforcement agency on  
32 and after the time that the Department of Motor Vehicles is able  
33 to provide access to the necessary records.

34 (3) A notice of parking violation issued for an unlawfully parked  
35 vehicle shall be accompanied by a warning that repeated violations  
36 may result in the impounding of the vehicle. In lieu of furnishing  
37 satisfactory evidence that the full amount of parking penalties or  
38 bail has been deposited, that person may demand to be taken  
39 without unnecessary delay before a magistrate, for traffic offenses,  
40 or a hearing examiner, for parking offenses, within the county in

1 which the offenses charged are alleged to have been committed  
2 and who has jurisdiction of the offenses and is nearest or most  
3 accessible with reference to the place where the vehicle is  
4 impounded. Evidence of current registration shall be produced  
5 after a vehicle has been impounded, or, at the discretion of the  
6 impounding law enforcement agency, a notice to appear for  
7 violation of subdivision (a) of Section 4000 shall be issued to that  
8 person.

9 (4) A vehicle shall be released to the legal owner, as defined in  
10 Section 370, if the legal owner does all of the following:

11 (A) Pays the cost of towing and storing the vehicle.

12 (B) Submits evidence of payment of fees as provided in Section  
13 9561.

14 (C) Completes an affidavit in a form acceptable to the  
15 impounding law enforcement agency stating that the vehicle was  
16 not in possession of the legal owner at the time of occurrence of  
17 the offenses relating to standing or parking. A vehicle released to  
18 a legal owner under this subdivision is a repossessed vehicle for  
19 purposes of disposition or sale. The impounding agency shall have  
20 a lien on any surplus that remains upon sale of the vehicle to which  
21 the registered owner is or may be entitled, as security for the full  
22 amount of the parking penalties for all notices of parking violations  
23 issued for the vehicle and for ~~any~~ all local administrative charges  
24 imposed pursuant to Section 22850.5. The legal owner shall  
25 promptly remit to, and deposit with, the agency responsible for  
26 processing notices of parking violations from that surplus, on  
27 receipt ~~thereof, of that surplus, the~~ full amount of the parking  
28 penalties for all notices of parking violations issued for the vehicle  
29 and for ~~any~~ all local administrative charges imposed pursuant to  
30 Section 22850.5.

31 (5) The impounding agency that has a lien on the surplus that  
32 remains upon the sale of a vehicle to which a registered owner is  
33 entitled pursuant to paragraph (4) has a deficiency claim against  
34 the registered owner for the full amount of the parking penalties  
35 for all notices of parking violations issued for the vehicle and for  
36 ~~any~~ all local administrative charges imposed pursuant to Section  
37 22850.5, less the amount received from the sale of the vehicle.

38 (j) When ~~any~~ a vehicle is found illegally parked and there are  
39 no license plates or other evidence of registration displayed, the  
40 vehicle may be impounded until the owner or person in control of

1 the vehicle furnishes the impounding law enforcement agency  
2 evidence of his or her identity and an address within this state at  
3 which he or she can be located.

4 (k) When ~~any~~ a vehicle is parked or left standing upon a  
5 highway for 72 or more consecutive hours in violation of a local  
6 ordinance authorizing removal.

7 (l) When ~~any~~ a vehicle is illegally parked on a highway in  
8 violation of ~~any~~ a local ordinance forbidding standing or parking  
9 and the use of a highway, or a portion thereof, is necessary for the  
10 cleaning, repair, or construction of the highway, or for the  
11 installation of underground utilities, and signs giving notice that  
12 the vehicle may be removed are erected or placed at least 24 hours  
13 prior to the removal by local authorities pursuant to the ordinance.

14 (m) Wherever the use of the highway, or ~~any portion thereof~~ a  
15 *portion of the highway*, is authorized by local authorities for a  
16 purpose other than the normal flow of traffic or for the movement  
17 of equipment, articles, or structures of unusual size, and the parking  
18 of ~~any~~ a vehicle would prohibit or interfere with that use or  
19 movement, and signs giving notice that the vehicle may be removed  
20 are erected or placed at least 24 hours prior to the removal by local  
21 authorities pursuant to the ordinance.

22 (n) Whenever ~~any~~ a vehicle is parked or left standing where  
23 local authorities, by resolution or ordinance, have prohibited  
24 parking and have authorized the removal of vehicles. A vehicle  
25 may not be removed unless signs are posted giving notice of the  
26 removal.

27 (o) (1) When a vehicle is found or operated upon a highway,  
28 public ~~lands~~ *land*, or an offstreet parking facility under the  
29 following circumstances:

30 (A) With a registration expiration date in excess of six months  
31 before the date it is found or operated on the highway, public lands,  
32 or the offstreet parking facility.

33 (B) Displaying in, or upon, the vehicle, a registration card,  
34 identification card, temporary receipt, license plate, special plate,  
35 registration sticker, device issued pursuant to Section 4853, or  
36 permit that was not issued for that vehicle, or is not otherwise  
37 lawfully used thereon under this code.

38 (C) Displaying in, or upon, the vehicle, an altered, forged,  
39 counterfeit, or falsified registration card, identification card,

1 temporary receipt, license plate, special plate, registration sticker,  
2 device issued pursuant to Section 4853, or permit.

3 ~~(D) The owner or person in possession of the vehicle has filed~~  
4 ~~with the Department of Motor Vehicles, a planned certificate of~~  
5 ~~nonoperation pursuant to Section 4604.~~

6 (2) When a vehicle described in paragraph (1) is occupied, only  
7 a peace officer, as defined in Chapter 4.5 (commencing with  
8 Section 830) of Title 3 of Part 2 of the Penal Code, may remove  
9 the vehicle.

10 (3) For the purposes of this subdivision, the vehicle shall be  
11 released to the owner or person in control of the vehicle only after  
12 the owner or person furnishes the storing law enforcement agency  
13 with proof of current registration and a currently valid driver's  
14 license to operate the vehicle.

15 (4) As used in this subdivision, "offstreet parking facility" means  
16 an offstreet facility held open for use by the public for parking  
17 vehicles and includes any publicly owned facilities for offstreet  
18 parking, and privately owned facilities for offstreet parking where  
19 ~~no fee is a fee is not~~ charged for the privilege to park and which  
20 are held open for the common public use of retail customers.

21 (p) When the peace officer issues the driver of a vehicle a notice  
22 to appear for a violation of Section 12500, 14601, 14601.1,  
23 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle ~~has~~  
24 ~~not been~~ *is not* impounded pursuant to Section 22655.5. ~~Any A~~  
25 vehicle so removed from the highway or ~~any public lands~~ *public*  
26 *land*, or from private property after having been on a highway or  
27 ~~public lands~~ *land*, shall not be released to the registered owner or  
28 his or her agent, except upon presentation of the registered owner's  
29 or his or her agent's currently valid driver's license to operate the  
30 vehicle and proof of current vehicle registration, or upon order of  
31 a court.

32 (q) Whenever ~~any~~ a vehicle is parked for more than 24 hours  
33 on a portion of highway ~~which~~ *that* is located within the boundaries  
34 of a common interest development, as defined in subdivision (c)  
35 of Section 1351 of the Civil Code, and signs, as required by Section  
36 22658.2, have been posted on that portion of highway providing  
37 notice to drivers that vehicles parked thereon for more than 24  
38 hours will be removed at the owner's expense, pursuant to a  
39 resolution or ordinance adopted by the local authority.

1 (r) When ~~any~~ *a* vehicle is illegally parked and blocks the  
2 movement of a legally parked vehicle.

3 (s) (1) When ~~any~~ *a* vehicle, except highway maintenance or  
4 construction equipment, an authorized emergency vehicle, or a  
5 vehicle ~~which~~ *that* is properly permitted or otherwise authorized  
6 by the Department of Transportation, is stopped, parked, or left  
7 standing for more than eight hours within a roadside rest area or  
8 viewpoint.

9 (2) For purposes of this subdivision, a roadside rest area or  
10 viewpoint is a publicly maintained vehicle parking area, adjacent  
11 to a highway, utilized for the convenient, safe stopping of a vehicle  
12 to enable motorists to rest or to view the scenery. If two or more  
13 roadside rest areas are located on opposite sides of the highway,  
14 or upon the center divider, within seven miles of each other, then  
15 that combination of rest areas is considered to be the same rest  
16 area.

17 (t) When a peace officer issues a notice to appear for a violation  
18 of Section 25279.